

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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MICHAEL J. MONROE,

Plaintiff,

v.

9:17-CV-1050  
(GTS/ML)

SCOTT KOCIENSKI, Corr. Officer, Franklin  
Corr. Fac., f/k/a Officer K; and BRIAN TYO,  
Corr. Officer, Franklin Corr. Fac., f/k/a Officer T,

Defendants.

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APPEARANCES:

OF COUNSEL:

MICHAEL J. MONROE

Plaintiff, *Pro Se*

126 Halgren Crescent

Haverstraw, New York 10927

HON. LETITIA A. JAMES

Attorney General for the State of New York

Counsel for Defendants

The Capitol

Albany, New York 12224

ERIK BOULE PINSONNAULT, ESQ.

Assistant Attorney General

GLENN T. SUDDABY, Chief United States District Judge

**DECISION and ORDER**

Currently before the Court, in this *pro se* prisoner civil rights action filed by Michael J. Monroe (“Plaintiff”) against the two above-captioned employees of the New York State Department of Corrections and Community Supervision (“Defendants”), are (1) Defendants’ motion to dismiss Plaintiff’s Amended Complaint for failure to prosecute pursuant to Fed. R. Civ. P. 41(b), and (2) United States Magistrate Judge Miroslav Lovric’s Report-Recommendation recommending that Defendants’ motion be granted, and that Plaintiff’s

Amended Complaint be dismissed in its entirety. (Dkt. Nos. 51, 53.) Neither party has filed an objection to the Report-Recommendation, and the deadline by which to do so has expired. (*See generally* Docket Sheet.) After carefully reviewing the relevant papers herein, including Magistrate Judge Lovric's thorough Report-Recommendation, the Court can find no clear error in the Report-Recommendation.<sup>1</sup> Magistrate Judge Lovric employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein, Defendants' motion to dismiss is granted, and Plaintiff's Amended Complaint is dismissed.

**ACCORDINGLY**, it is

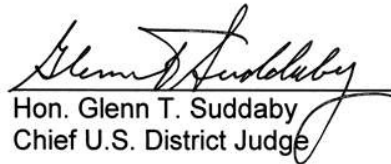
**ORDERED** that Magistrate Judge Lovric's Report-Recommendation (Dkt. No. 53) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

**ORDERED** that Defendants' motion to dismiss (Dkt. No. 51) is **GRANTED** and Plaintiff's Amended Complaint (Dkt. No. 26) is **DISMISSED** in its entirety pursuant to Fed. R. Civ. P. 41(b).

The Court certifies that an appeal from this Decision and Order would not be taken in good faith.

Dated: February 26, 2020  
Syracuse, New York

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Hon. Glenn T. Suddaby  
Chief U.S. District Judge

<sup>1</sup> When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear-error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a clear-error review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; *see also Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at \*1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).